

STATE OF RHODE ISLAND - DIVISION OF TAXATION

SALES AND USE TAX

REGULATION SU 02-97

ROOM RENTALS -- BY HOTELS, ROOMING HOUSES, TOURIST CAMPS

(1) In General -- Except as noted, living quarters in hotels, motels, rooming houses and tourist camps are subject to tax. Where a hotel or motel rents a room designed as living quarters (i.e., a bedroom, suite, etc.) even though the room or suite is rented to a business for display or conference purposes, rental charges made for such accommodations will be subject to tax. See definitions in section (6) of this regulation.

The tax applies only to the first period of not exceeding 30 consecutive calendar days of each rental period. For example, where a tourist remains in the same hotel 35 consecutive days, the tax must be added to the amount charged for the first 30 consecutive days of occupancy, and charges for the remaining 5 days will not be taxable. A person whose occupancy is for 30 consecutive days or less (e.g. a day, a week, two weeks, etc.) must also pay the tax.

In the event that an occupant has a written lease covering a rental period of (12) months or more, the first 30 consecutive days of such occupancy are not taxed.

Every person managing or operating a hotel, motel, rooming house or tourist camp, or who collects or receives rents therefrom on behalf of the owner or operator is liable for the tax on such rentals. The tax shall be added to the rental charge, and when added such tax shall constitute a part of such charge.

Break in Occupancy

Any break in occupancy results in the creation of a new and separate rental. For example, such a break occurs when a guest terminates his occupancy by checking out or by transferring from one hotel to another hotel even though such hotels are operated by the same owner. The tax will apply to charges for such new and separate rentals in the same manner and to the same extent as though such guest had just checked in for the first time, and the 30 day taxable period starts all over.

However, a mere change of rooms in the same hotel or motel, or in the same rooming house or in the same tourist camp does not constitute a break in occupancy.

Rentals Excluded -- Permanent-type Dwellings

As previously pointed out, the tax applies to rental charges for living quarters in HOTELS, ROOMING HOUSES and TOURIST CAMPS as defined in this regulation.

It is therefore emphasized that the tax does not apply to rentals in those structures which consist exclusively of apartments, flats or tenements (furnished or unfurnished) constituting the usual places of abode of all the tenants therein. Usual places of abode means regular, fixed and permanent residences as distinguished from temporary stopping or abiding places. Except as otherwise noted, rental or leases of residential-type dwellings are likewise not subject to tax.

(2) Registration -- A person who operates a building or buildings in which the public may, for a consideration, obtain living quarters, including such establishments as inns, hotels, motels, apartment hotels, tourist camps, tourist houses or courts, lodging houses, rooming houses, summer camps, resort lodges and cabins, and other similar buildings or group of buildings in which living quarters as herein defined are available to the public for hire must register and collect the tax on the first period of not exceeding 30 consecutive calendar days or less of each rental period. (A person who only has one room or a single camp cottage or cabin to rent is not required to register or add and collect the rental tax.)

(3) Rental of Public Rooms -- Because the tax applies only to living quarters, the hotel or motel operator is not required to charge the tax on the rental of public rooms (i.e., assembly rooms, ballrooms, card rooms, etc.) for group meetings, display purposes, dances, or for similar events as long as the charges are separately stated. However, these charges may be subject to sales and use taxes as described below:

(a) If a customer rents a room in conjunction with the serving of a meal (wedding, banquets, retirement dinner or similar events) and the meal is provided by the operator/owner of the room, the charge for the room, whether or not separately stated, is treated as an other charge for the furnishing, preparing or serving of the meal and is included in the sales price of the meal.

(b) If a customer rents a room for purposes other than the serving of meals and there is an incidental serving of light refreshments by the operator/owner of the room for an additional charge, the sales tax applies only to the sales price of the refreshments, if the charge for the refreshments is separately stated on both the records of the vendor and the bill to the customer. If the charges are not separately stated, the entire amount charged is subject to the sales tax.

(c) If more than one meeting room has been rented for use at the same function, with one room being used for the serving of meals and another room being used for the meeting; the facility's separately stated and reasonable charge (based on prevailing rates in the area) for the room not used for the serving of meals is not treated as charges for the meals, and is not subject to sales and use taxes. If the charge for the room being used for the meeting is neither separately stated nor reasonable, the facility's total charges are treated as charges for the meals, and are subject to sales and use taxes.

(4) Living Quarters Furnished Employees -- Tax will not be considered to apply in a case where living quarters are furnished by the employer to the employee, at premises controlled by the employer, and solely for the convenience of the employer; regardless of whether there is a pay differential, or pay deduction, based upon the furnishing of such quarters.

(5) Exemptions -- The following rentals are exempt from tax:

- (a) Rentals charged at camps or retreat houses operated by religious, charitable and educational organizations and institutions.
- (b) Rentals charged by privately owned and operated summer camps for children.
- (c) Rentals charged for living quarters in an institution licensed by the state for the hospitalization, custodial or nursing care of human beings.
- (d) Rentals charged by any non-profit educational institution for living quarters to accommodate any student or teacher necessitated by attendance at such institution.

However, where a non-profit organization rents living quarters in the same manner as a hotel or rooming house (e.g. YMCA) it is required to register and add and collect the rental tax.

Other Exemptions

- (a) Occupancy of rooms by the Government of the United States, or its agencies, or by an employee or representative of the Government of the United States or its agencies, when such occupancy is solely for official purposes and the rent is paid by the Government of the United States or its agencies, is exempt from tax.
- (b) Members of the Armed Forces are not exempt from tax upon occupancy of rooms unless acting as authorized representatives of the Government of the United States or one of its agencies and are otherwise entitled to exemption under the provisions of the preceding paragraph.
- (c) Occupancy by employees or representatives of the State of Rhode Island, its instrumentalities or political subdivisions, is exempt from the tax when such occupancy is for official purposes and the rent is paid by the state, its agencies or political subdivisions.

Whenever exemption from the tax on room rental charges is claimed by any employee, representative or other official of the United States government, or of the State of Rhode Island or of any of its cities or towns or other political subdivisions, because such person is on official business, such exemption will apply only if the following two conditions are met:

- (1) The bill is made out to the governmental agency involved, and
- (2) Payment is made by such agency.

In case the official pays the bill (even though the bill be made out to the governmental agency by whom he or she is employed or which he or she represents) the tax applies. In such case it is immaterial that such official is reimbursed or that the economic burden of the tax is passed on to the governmental agency.

Records of Exempt Rentals

The operator must maintain records to support and identify all exempt rentals.

(6) Definitions -- Living quarters means sleeping rooms, sleeping or housekeeping accommodations, or any other room or accommodation in any part of the hotel, rooming house or tourist camp which is available for or rented out for hire in the lodging of guests.

Hotel means every building or other structure kept, used, maintained, advertised as or held out to the public to be a place where living quarters are supplied for pay to transient or permanent guests and tenants and includes a motel and an apartment hotel.

Apartment hotel means a building which consists of certain apartments or rooms for temporary occupancy by the day, week, or other short periods of time and also for permanent occupancy on a monthly, or other long term basis. The tax applies to the first period of not exceeding 30 consecutive calendar days on ALL rentals charged in such apartment hotels whether the rentals are for such temporary or such permanent accommodations unless as previously noted the occupant has a written lease covering a rental period of twelve months or more.

Rooming house means every house, boat, vehicle, motor court or other structure kept, used, maintained, advertised or held out to the public to be a place where living quarters are supplied for pay to transient or permanent guests or tenants, whether in one or adjoining buildings.

Tourist camp means a place where tents or tent houses, or camp cottages, or cabins or other structures are located and offered to the public or any segment thereof for human habitation.

A person who has more than one camp cottage, cabin or camp for rent will be considered to be in the business of operating a tourist camp and must register, collect and remit the tax on the first period of not exceeding 30 consecutive calendar days of each rental period. Where the letting is for a lump sum covering a period of more than 30 days, the tax will be based on that proportion of such total amount of rental thus payable as 30 days bears to the total number of days in the entire rental period.

CROSS REFERENCE: Section 44-18-36.1 R.I.G.L. as amended re "Hotel Tax"

R. GARY CLARK
TAX ADMINISTRATOR

EFFECTIVE: MARCH 1, 2002

THIS REGULATION AMENDS AND SUPERCEDES REGULATION SU 87-97 PROMULGATED MAY 1, 1987.

CROSS REFERENCE: SU 02-59 "Meals"